IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

CRL.A.No. 36 of 2001(A)

AGAINST THE JUDGMENT IN CC.673/1998 OF JUDL.MAGISTRATE OF FIRST CLASS COURT-V, TRIVANDRUM DTD. 26/09/2000.

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APPELLANT/COMPLAINANT:

P. SUYAMBU,
T.C. 39/1005, KOTHUVAL STREET,
CHALAI, THIRUVANANTHAPURAM.

BY ADV. SRI.M.SREEKUMAR.

RESPONDENTS/ACCUSED & STATE:

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1. **S. JANARTHANAN,**
   S/O. SADASIVAPANICKER,
   T.C. 17/1228, V.V. NAGAR,
   PANGODE, THIRUVANANTHAPURAM.

2. **STATE OF KERALA, REPESENTED BY THE**
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

BY ADV. SRI.S.SANTHOSH KUMAR,
PUBLIC PROSECUTOR SRI. K.R. SIVAKUMAR.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 30/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY, J.

Crl.Appeal No.36 OF 2001

Dated 30th July, 2007

JUDGMENT

A complaint was filed by the appellant before the Magistrate's Court under Section 138 of the Negotiable Instruments Act contending that the cheque issued by the respondent/accused for Rs.60,000/= on 10.5.1998 was dishonoured for insufficiency of funds. The case of the accused was that there were business transactions between the appellant and the accused. He was doing a whole sale business and for the last 10 years he was having credit facility. As a security, a blank cheque was entrusted and the cheque was corrected and used for this case by the appellant and according to the respondent, no amount is due to the appellant. In cross examination, the complainant has admitted that there were business transactions between them and the accused used to get credit facility. But, according to him, no security was received for granting credit. Trial court noticed that originally the cheque was written as 10/5/1997. That was seen corrected was `1998' and the signature put in the cheque when it was executed and the signature put in the correction were different. It is the case of the complainant that when the cheque was returned

there was a correction in the date and the accused himself had corrected with his signature. But, the trial court correctly found that there is gross difference between the two signatures in the cheque. Even the ink was also different and, therefore, the defence story that only blank cheque was issued as security is more probable. I have also examined Ext.P1 cheque. Difference in signatures is visible to the naked eye. I am of the opinion that the above view is a possible view. In this connection, I refer to the decision of the Supreme Court in ***M.S.Narayana Menon @ Mani*** v. ***State of Kerala and another*** (2006(3) KLT 404 (SC)). Two signatures are appearing in the cheque and there is gross difference between the two signatures. In any event, I cannot say that the view taken by the trial court is not a possible view.

In the above circumstances, the appeal against acquittal is dismissed.

J.B.KOSHY
Judge

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